Application number: 10/614,919   **Art Unit:** 3692
Applicant: Khai Hee Kwan   **Examiner:** Chuks Onyezia, Esq.
Title: System and method for conducting an electronic financial asset deposit auction over computer network.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

TO: Commissioner for Patents

     Virginia 22313-1450

5

_APPEAL BRIEF

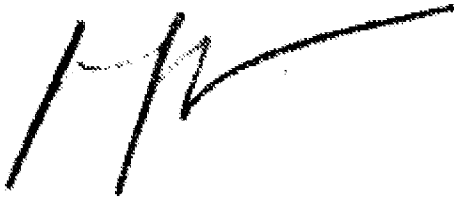ATTEN: Board of Patent Appeals and Interferences

10

The following brief is submitted in connection to the above-identified application, subsequent to the Notice of Appeal filed on 19 Sept 2008 and receiving Pre-Conference REPLY dated 14 Nov 2008. This brief is accompanied by its prescribed fee.

15

Thank you.

Yours truly,

20

K H KWAN
Appellant/Applicant
023336
9 Dec, 2008

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REAL PARTY IN INTEREST

5   The real party in interest is the Applicant/Appellant, Khai Hee Kwan.

RELATED APPEALS AND INTERFERENCES

10

None

15

STATUS OF CLAIMS

20   As per Examiner's Final Action Letter page 2, Claims 1-3,6,7-9,12 13-15 and 18-20 rejected under 35 USC 103(a) by US Patent 5613679 (herein 'Casa') and US Patent 7092904 (herein 'Understein')

As per Examiner's Final Action Letter page 4-5, Claims 4,5,10,11,16 and 17 rejected

25   under 35 USC 103(a) by US Patent 5613679 (herein 'Casa') and US Patent 7092904 (herein 'Understein') and US patent 6363365 (herein 'Kou').

A copy of said claims are contained in the APPENDIX .

30

STATUS OF AMENDMENTS

35   No amendment has been filed subsequent to final rejection.

Title: System and method for conducting an electronic financial asset deposit
auction over computer network.

SUMMARY OF THE CLAIMED SUBJECT MATTER

(Pages below are reference to specification unless otherwise stated).

5

A. Claim 1 – Independent Method

The present invention features a computerized network (Fig 1) method to determine the

10   best rate for deposits amongst a number of trusted entities. (page 2 line 9). The host

computer receiving bid amount (page 2 line 13-15). The computer selects a winner from

said bids in said auction submitted by said depositors (page 6 line 13-20) and said

computer excluding said winner from future auctions (page 2 line 15-17) and depositing

pooled funds for said winner's account (page 2 line 18-19 ie - borrower) and it repeats

15   foregoing steps at predetermined intervals with remaining depositors; (page 2 line 15-17)

and whereby funds comprising cash equivalent or cash. (page 3 line 5)

B. Claim 7 – Independent System

20

A trusted deposit auction system comprising at least a trusted network consisting of

members computers with a host server connected to the network (Fig 1). The host server

is a computer with memory and processor to execute program code wherein the program

25   code, further comprising:

A) code to receive bid amount as a discount from principal or discounted principal from

members of said trusted network wherein said members are depositors; (page 2 line 13-

15)

30   B) code to select a winner from said bids in said auction submitted by said depositors;

(page 6 line 13-20)

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C) code to exclude said winner from future auctions; (page 2 line 15-17)

D) code to deposit pooled funds for said winner's account; (page 2 line 18-19 ie -

borrower)

E) code to repeat execution of codes A, B, C, D at predetermined intervals with

5   remaining depositors (page 2 and 15-17)

whereby funds comprising cash equivalent or cash. (page 6 line 8-11)

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GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

5   A. Whether the examiner's Claim rejection for Claims 1-3,6,7-9,12 13-15 and 18-20

rejected under 35 USC 103(a) by US Patent 5613679 (herein 'Casa') and US Patent

7092904 (herein 'Understein') is sustainable ?

10

B. Whether the examiner's Claim rejection for Claims 4,5,10,11,16 and 17 rejected under

35 USC 103(a) by US Patent 5613679 (herein 'Casa') and US Patent 7092904 (herein

'Understein') and US patent 6363365 (herein 'Kou') is sustainable ?

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<u>ARGUMENT</u>

The appellant traverses all rejections.

5

**A. Whether the examiner's Claim rejection for Claims 1-3,6,7-9,12 13-15 and 18-20
rejected under 35 USC 103(a) by US Patent 5613679 (herein 'Casa') and US Patent
7092904 (herein 'Understein') is sustainable ?**

10   <u>**Whether the 103(a) rejection is valid ?**</u>

The Casa patent refers to "A method of playing a lottery game wherein a primary random
selection from among a group of wagering lottery players is supplemented by a secondary
random selection from among a group of potential secondary recipients." (See Abstract).

15   In "field of invention" it says "This invention relates to the field of <u>chance selection</u>.
More particularly, it relates to a method of conducting a lottery wagering game wherein a
primary <u>random selection</u> of a winner or winners from a group of lottery players is
supplemented by the <u>random selection</u> of a secondary prize recipient from a selected
group." (underlined mine)

20

Lottery is also defined as "A lottery is a form of gambling wherein wagering players bet
on their being selected by chance to win a valuable prize." as in Col 1 line 15. At col 2,
line 1-5 Casa defines the issue of novelty for this invention being "With the above in
mind, a novel lottery game is needed which would emphasize and capitalize on a lottery's

25   charitable purposes while more directly benefiting the entities for whom, at least in part,
the lottery is conducted."

An example is described as follows "With that in mind, one might begin to carry out the
present invention by accepting a monetary wager from at least one lottery player.

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Typically, a portion of these wagers will be contributed to a lottery fund from which prizes may be awarded. Each wagering player would be secured a player series of indicia. In turn, each player series of indicia would be compared to a revealed winning series of player indicia to determine whether any wagering player is a winning player. This

5   determination would be carried out by ascertaining whether there is a sufficient number of matches between the player series of indicia and the winning series of player indicia as dictated by the sponsoring authority's distribution method. Any winning player would be awarded a valuable prize. This primary lottery would be supplemented by the random selection of at least one secondary prize recipient from a selected group." at col 2 line

10   35-50.

Casa then explains the secondary winner (ie enhancing public recognition of lottery to benefit recipients such as schools) as follows : "The random selection of a secondary recipient may or may not be dictated by the winning series of player indicia. A random

15   selection of the secondary recipient (i.e. a school) may be accomplished in any of several ways such as by compiling a list of eligible schools, assigning each school a scholastic series of indicia, revealing a winning series of scholastic indicia, and determining whether any school is a winning school by comparing the scholastic series of indicia with the winning series of scholastic indicia for sufficient matching. One may surmise that the

20   winning series of scholastic indicia need not be distinct from the winning series of player indicia." at col 2 line 64 to col 3 line 10. To ensure equity, each school is then removed after each winning to satisfy all.

As for the Understein's Patent, the examiner has clearly misread the functionality and

25   nowhere does it described it as a deposit auction (ie offering deposits). This application and its parent are concerned with depositors as in deposits placed in a financial institution (intermediary) and such deposit is not well known to be for buying items in an auction.

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Understein teaches placing funds in a deposit account (intermediary) in order for bidder
to bid in an auction (having the funds in a deposit account qualifies the bidder) and said
deposit account is used to pay for the item bidded if bidder is successful. This does not
teach where deposit itself being offered for bidding and where the winner with the

5   highest discount rate will get to use the deposits as per this claimed invention or its
parent. Understein clearly described in its abstract "A system and method for qualifying a
bidder over a global network for an auction helps to significantly reduce or eliminate
commerce fraud. An auction site, for example, enlists the system to maintain bidder
funding accounts for prospective bidders. When a bid is placed, the funds are reserved in

10   the bidder's bidder funding account including funds for a deposit if required. In the event
that a bidder is not the high bidder, the reserved funds are released. At completion of the
auction, the funds may be transferred from the winning bidder's bidder funding account to
the seller, and the bid holds are released. A balance in the bidder funding account can be
established according to funds deposited in the account in an interest-bearing account or

15   via a line of credit issued from a bank card issuing company or the like." (underlined
mine).

It is clear from Understein (see underlined), it requires deposit to be held in reserved
when a bid is placed BUT in this claimed invention there is no such requirement. The

20   first round of auction merely requires bids in the form of a discount from principal or
discounted principal (which clearly reflects its financial nature). Say the bids are 10,20,15
then discounted principal is merely 90,80,85 (ie assuming principal is 100). It is only
when the winner is selected (ie 20-highest) then the deposit equivalent to the winner's bid
is pooled for the winner which is 80 (discounted principal). The highest discount is only

25   possible by the auction mode (discovery) rather than by chance or random as in Casa.
The claimed invention requires winner (also a member of depositors) need not placed any
deposit to bid is clear and instead he receives the pooled discounted principal.

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Furthermore, it is unknown in the art of lottery to find it necessary to ask lottery buyer to place a deposit ? There is no problem at all for buyers of lottery tickets (which is not by auction) to merely pays for it on the spot. The examiner states that Understein requires deposit accounts from its bidders BUT that is because at the time of bidding, no winner is

5   known as yet then as a security measure to qualify the bids to have the deposit placed. Unlike lottery, there is no such issue since a buyer buys lottery on the spot as versus having to wait for an auction to complete and hence there is no necessity to deposit and hence no reason to combine with Understein. Furthermore, the examiner did not explain how a random/chance selection in Casa is capable of combining with an auction's need

10   for securing payment later. If the random/chance selection in Casa is to be replaced by auction which is unstated by the examiner must also provide a reason. Unless the examiner articulate a reason for lottery ticket buyers bidding by auction means, then the need to secure deposit just to purchase a lottery ticket does not make sense at all. The deposit account in Understein serves a different purpose which is to eliminate commerce

15   fraud where the winner bidder provides no funds to buy the item at close of auction, a problem not found in the purchase of lottery tickets.

Understein also does not teach those depositors offering their funds for a high rate (interest) to lend their funds to the winner which is really the subject matter of this

20   claimed invention. Therefore, Understein is not relevant at all as a 'deposit auction' and therefore its combination with Casa will not result in this claimed invention.

The examiner also gave the apparent reason "..providing a secure way of extending credit to participants while assuring payment" (col 1 lines 38-44 of Understein) For

25   completeness, the applicant prefers to cite the whole paragraph (col 1 lines 38- 52) and it reads "The system according to the present invention enables an auction company to provide a secure way of preventing fraudulent bidding and preventing participation by bidders that fail to settle after winning an auction. The system is preferably an Internet

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web site that serves to electronically transact the acceptance and verification of deposits

from multiple auctions or transactions and participants simultaneously. The system

provides an easy to use and efficient method for minimizing fraudulent bidding in

multiple auctions simultaneously while being capable of providing insured (such as

5   FDIC) <u>interest bearing deposits held for bidders</u>. The system incorporates a secure web

site capable of communicating with numerous auction entities and tracking multiple

deposit accounts for participants in a commerce environment simultaneously."

(underlined mine)

10   It is clear from the above, while Understien suggest insured FDIC interest bearing

deposits. All it teach is that FDIC interest bearing deposits are held for bidders,

presumably at the financial institution itself for the bidders (ie principal plus interest).

However in this claimed invention, the deposits are not placed with FDIC accounts but

instead are pooled and placed with the winner after deducting the winner's discount bid.

15   The winner merely receives the discounted principal (ie without interest). Furthermore,

Understein's teaching only shows the deposit earning interest for the bidders and it is

customary in a normal type of auction where there is only ONE winner to pay to seller

(using said deposit less interest) as contrast to all losers to pay the discounted principal to

the winner in this claimed invention. The crux here shows the difference between

20   ordinary auction like in ebay as compared to deposit auction where the deposit is not for

purchase of any goods and is returned in the next period. How this one auction winner

paying to seller in Understein is reconcilable with Lottery scheme (in Casa) where buyers

purchasing lottery tickets are deemed to pool the funds but only lesser amount is given to

the winner is unstated by the examiner. For example, the total pooled funds in a lottery

25   would not necessarily be summed for the winner otherwise it defeats the purpose of

lottery which ultimately donates the winnings to charity and not to a single winner.

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As mentioned this 'deposit requirement' is out of step with the needs of buying a lottery since such purchase is done on the spot (without auction). And it is clear the seller which ultimately receives the money is NOT one of the participants (members of the auction) as claimed. In short, the seller does not bid for the deposits/his own item, he merely offers

5   an item for sale as in an auction. When the seller is bidding for his own item, this is often known as a fraudulent bid to boast the price hence to avoid this, deposits is needed to qualify this as genuine.

Therefore, for the reasons above both prior arts are not combinable and one skilled in the

10   art would not see the combination is obvious. As a whole, there is nothing to suggest depositors offering their deposits (as a discounted principal) to members in a trusted network by auction to discover the best return rate amongst each member through repeated auctioning whereby the last winner is removed as claimed. Therefore respectfully, there is no basis at all for a 103(a) rejection and the following claims ought

15   to be allowed.

Claims 1,7,13,19

20   Using Claim 1 as representative. Claim 7 is a system claim (with similar elements) as compared to a method claim in Claim 1. Similarly Claim 13 is Article of Manufacture for method of Claim 1 and Claim 19 is a system claim for method of claim 1.

The applicant suspects the examiner consider selecting a winner to read into "lottery" ie

25   random selection which is untenable in view of the entire specification which teaches selecting the winner by auction. The examiner had not explained how "lottery" is

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inherent in an auction when both modes of selecting winners are obviously different.

Without satisfactory explanation, the applicant respectfully rejects this interpretation at

page 3. This is also out of step with the combining Understein which the examiner

claims to provide "deposit auction". As it is clear Understein does not teach deposit

5   auction as in this claimed invention and while it uses deposit as a way to improve

payment in e-commerce auction, there is <u>no apparent reason</u> to combine with lottery in

Casa. It is well known punters buy lottery on the spot without the need to bid as in

auction for those lottery tickets due to the willingness of the seller (lottery vendors) to sell

at a fixed price rather than a bided price. It is also common sense to see that if lottery

10   vendors will sell lottery tickets by auction means, then their pooled funds will be greatly

reduced (since only one winner will pay for the ticket) and its foolhardy to do so.

Claim's element	Evidence by Examiner from Casa	<u>Comments</u>
receiving bid amount as a discount from principal or discounted principal from members of a trusted network wherein said	Col 2, line 35-51. "With that in mind, one might begin to carry out the present invention by accepting a monetary wager from at least one lottery player. Typically, a portion of these wagers will be contributed to a lottery fund from which prizes may be awarded. Each wagering player would be secured a player	There is no evidence to show how a lottery is also inherently to an auction. An inherency teaching must be necessarily present in the structure described in the applied reference (Casa) (See Continental Can co v Monsanto co., 948 F.2d 1264, 1268 20 USPQ2d 1746, 1749 (Fed Cir 1991). The examiner must <u>provide extrinsic evidence, rather than opinion</u>, that makes clear that " the missing descriptive matter is

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members are depositors;	series of indicia. In turn, each player series of indicia would be compared to a revealed winning series of player indicia to determine whether any wagering player is a winning player. This determination would be carried out by ascertaining whether there is a sufficient number of matches between the player series of indicia and the winning series of player indicia as dictated by the sponsoring authority's distribution method. Any winning player would be awarded a valuable prize. This primary lottery would be supplemented by the random selection of at least one secondary prize recipient from a selected group".	necessarily present in the thing described in the reference, and that it would so recognised by persons of ordinary skill." In re Robertson, 169 F.3d 743, 745, 49 USPQ2d 1949, 1950-51 (Fed. Cir. 1999).

No Trusted Network in Casa.

No depositor in Casa. Players in Casa could not be shown as depositor as depositor has the right to call their deposits but not in a game of lottery.

Casa also did not teach bids in the form of discount from principal or discounted principal. (antecedent in page 24 line 13-16, ie IBM shares example) |
| | **The examiner also asserts "interprets participants of a lottery as bidder of an auction".** | The examiner failed to show how this is well known in the art for this interpretation to stand. The applicant submits this is fanciful as lottery is bought on the spot and not by auction means. |
| selecting a | Col 2, lines 44-51 'This | The selection method in Casa is clearly by |

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winner from said bids in said auction submitted by said depositors;	determination would be carried out by ascertaining whether there is a sufficient number of matches between the player series of indicia and the winning series of player indicia as dictated by the sponsoring authority's distribution method. Any winning player would be awarded a valuable prize. This primary lottery would be supplemented by the random selection of at least one secondary prize recipient from a selected group."	lottery means (chance) which is not inherently the same as selecting from bids by auction (ie highest or lowest but not by chance). A lottery is a game of chance (random selection) and hence selection is by comparing number of matches between the winning series and player's series. In col 2, line 58-60 "In preferred embodiments, the winning series of indicia will be determined by a central, random drawing." It is submitted that random drawing will not inherently show to one skilled in the art of auction of selecting a winner from bids. Casa also teach more than ONE winner (col 6 line 60-61 and Col 6, line 67.) per session which is not taught in this claimed invention.
excluding said winner from future auctions;	Col 4, lines 11-15 "Since the optimally-preferred embodiment of the invention contemplates each winning entity's being excluded from winning again until all eligibly entities have won, the system ensures that all eligible	It should be recognized "winning entities" here refers to schools or recipients which are not the players (wager). And because these recipients are NON–Wager (Col 7 line 10-40) and being passive participants they do not satisfy being bidders/depositors as asserted by the examiner.

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	recipients will benefit."	
depositing pooled funds for said winner's account;	Col 2 lines 48-49 "Any winning player would be awarded a valuable prize. This primary lottery would be supplemented by the random selection of at least one secondary prize recipient from a selected group".	There is no suggestion that this valuable prize is pooled funds deposited by depositors (opposed to wager) ? As mentioned the word "depositing" has special meaning within this application to mean a form of lending not wagering, see Application Page 5 line 4. Furthermore, random selection for a secondary prize is not auction either, as the recipients are not participants but passive receiver.
repeating steps A, B, C, D at predetermined intervals with remaining depositors; and whereby funds comprising cash equivalent or cash.	Col 4 lines 11-15 "With a large, single-transaction cash award, a recipient entity could undertake and fund significant projects. Since the optimally-preferred embodiment of the invention contemplates each winning entity's being excluded from winning again until all eligibly entities have won, the system ensures that all eligible recipients will benefit."	It should be recognized winning entities here refers to schools or recipients which are not wagers. This is not the same as saying allowing each player (wager) to win and exclude said player until all remaining players also win. It is illogical for every wagers to win in lottery. As mentioned, non-wager recipients are passive participants for the prize only, they do not bid which is required when said steps are repeated. It is submitted the examiner had mischaracterized Casa's teaching.

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As can be seen above, it is clear except for "whereby funds comprising cash equivalent or cash" the other elements are NOT found in Casa which is selection by lottery. Respectfully, the applicant asked the Appeal Board to allow these claims. The combination with Understein is also unsustainable for the reasons above as it merely

5   teach bidders to create a deposit account so this can be securely use to pay the seller. It does not teach offering the deposits to winner who is also a bidding member of the trusted network. In contrast to normal auction, the seller who ultimately receives the funds is not a bidding member of said trusted network.

10   **Claim 2,8,14**

Using 2 as representative.

The examiner provided Casa Col 2 lines 35-51 as evidence to show these claims. The

15   applicant respectfully disagrees. The claim requires the selected winner making a principal repayment in the NEXT interval following the winning interval. In short, this means the winner (wager in Casa) rather than recipient in Casa making a repayment which is unheard of in a lottery. What is the point of a lottery when the winner has to repay its principal in each interval ? Casa also did not teach the recipient (See Schools

20   example) having to repay its principal (albeit it did not even participate in the lottery as wager in the first place). Respectfully, the applicant asks the examiner to allow this claims.

25

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Claim 3,9,15

Using 3 as representative.

5   The examiner provided Casa Col 2 lines 35-51 as evidence to show these claims. The
examiner also states that "interprets the recouping of original investment as a discounted
principal". In this respect, the applicant repeats the requirement of Continental Can co v
Monsanto co., 948 F.2d 1264, 1268 20 USPQ2d 1746, 1749 (Fed Cir 1991). The
examiner provided no reasoning for the above dubious interpretation which is unknown

10   in the art of lottery. In this claim, the unselected depositors have to deposit the discounted
principal as bided by each selected winner at each interval which is not found in Casa.
How this is recouping original investment when they are paying out ? Say the principal is
100 and the winner bided 30 (discount), each non-winners then give 70 to the winner.
How is this "original investment" ? The winner in the next round pays 100 to each

15   member who had given him the 70 while the non-winners paid whatever is the discounted
principal as per claim 3 etc. This is best explained by Box B in specification page 32.

NetFlow Box B (Assuming principal is 1000)

		1	2	3	4
	Cycle	May	Mary	Andrew	Tim
	1	2100	-700	-700	-700
	2	-1000	2400	-700	-700
	3	-1000	-1000	2950	-950
	4	-1000	-1000	-1000	3000
	Net	-900	-300	550	650
	ROI	-30%	-10%	18.30%	21.67%

In cycle 1, May is winner with highest bid of 300, so she collects 2100 and the others

30   pay 700 each (1000-300). The payment of 700 each is this elements of this claim but how
is this "original investment recoup" ?. At this stage, May has not even invested any

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money yet (no original investment to recoup). She merely promises to pay the principal in the each next cycles. In Cycle 2, the winner is Mary. But May has to pay 1000 now (the principal) as per claim 2, which means Mary collects 1000 (may) +700 (Tim) +700 (Andrew). In the third cycle having only Andrew and Tim bidding, Andrew bids 50 and Tim bids 10 so the winner with his bid 50, so he collects 2950 (950 from Tim and balance 1000 each from previous winners). In financial terms, we can interpret May receives $2100 but she pays $3000 which cost her $900 while Tim receive $2950 but he paid only $2400 which means he made $550 interest. In both cases there is no recouping of original investment amount because what is paid is NOT equal to what is received. The difference is either cost of using the funds or interest earned as represented by the ROI. (negative means cost while positive means return)

Claim 6,12,18,20

Using 6 as representative.

The examiner provided Col 4 line 11-14 "Since the optimally-preferred embodiment of the invention contemplates each winning entity's being excluded from winning again until all eligibly entities have won, the system ensures that all eligible recipients will benefit."

As mentioned, the winning entity here refers to the recipient (non-wager - Col 7 line 11 in Casa) of the funds due for charity and not the lottery winners. If these are non-wagers then it fails to satisfy being bidders which forms the group to be selected. Even if this is wrong which is denied, these non-wagers do not bid which is required when the step E is repeated. Hence the evidence fails to show this and these claims must be allowed.

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Furthermore, there is no teaching in Casa which repeats until one depositor is left or the

repeating sessions could not be more than the number of players. It is also unknown in

the art of lottery to be able to maintain/fix/limit the number of players (wagers) at the

outset since the players will join and leave in a lottery (ie lottery players need not

5   necessarily play all the games/cycles).

B. Whether the examiner's Claim rejection for Claims 4,5,10,11,16 and 17 rejected

under 35 USC 103(a) by US Patent 5613679 (herein 'Casa') and US Patent 7092904

10   **(herein 'Understein') and US patent 6363365 (herein 'Kou') is sustainable ?**

Claims 4,5,10,11,16,17

15   The examiner asked the applicant to show that these claims are patentable over a 103(a)

rejection in view of Kou (US patent 6363365) and Understein and Casa.

Claim 4,10,16

20

Using 4 as representative which states "whereby membership of a depositor network is by

invitation only and <u>said members are anonymous."</u>

25   <u>The examiner asserts that Kou teaches biding by invitation and gave col 4 lines 34-51 as</u>

<u>evidence. The Examiner continued stating " One would find the motivation to combine</u>

<u>these teachings in this way, for the purpose of securing the auction network (Kou Col 1</u>

<u>line 5-8)</u>

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auction over computer network.

Kou teaches open network such as the Internet where it publishes its invitation electronically to bidders. It is submitted that publishing an invitation does not inherently reveals membership of a network is by invitation only and remembering the independent claims includes TRUSTED network. It is obvious invitation only does not sit well in a

5   lottery based selection where invitee must be members. It is unknown for lottery to be based by membership and there is no apparent reason to so restrict. Furthermore, how do you invite members who are anonymous ? Understein teaches placing/opening deposit accounts BUT not for these deposits to be offered as a loan to others (not known to place bids for the deposits) and neither can these members be anonymous and how do they

10   become a member of a trusted network (as per independent claim 1,7,13,19). Understein merely states the deposit accounts aids the credibility of the bidder so he can use the deposits to pay for items he bought later to avoid fraud (avoid paying the winner who is not a member of these trusted network since said winner in Understein does not bid). Since the subject matter is different to deposit auction then even if both are combinable,

15   they do not show the claimed invention as a whole.

The examiner asserts that the motivation is for the purpose of securing the auction network (Kou Col 1 Line 5-8). On closer examination this "securing" is actually a reference to "locked box" for receipt of electronic bids (Kou Col 3 Line 55-60) which

20   has nothing to do with the invitation at all (feature that is to be combined). Casa teaches lottery and not submitting a bid and begs the question whether there is a need for lottery numbers to be under "locked box" for security ? As mentioned previously it is not inherent to read auction in the same light as lottery as both are not known to one skilled in the art to necessarily means the same. With hindsight, the examiner had merely pick

25   features which would not be obvious to combine given they do not related to secure an auction network.

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With respect, after KSR v Teleflex's decision, the standard is an apparent reason to combine. In arguendo, assuming this motivation is equivalent to "apparent reason" to combine, the examiner had also fail to show why is there a need to modify Casa to do so when there is not even a network in Casa for submitting bids. Critically, Casa teaches

5   having as many wagers to participate which will be severely limited if each wager must be a member by invitation only. As stated earlier, this is a trusted network by invitation it must necessarily means knowing the party as membership requirements must be fulfilled and certainly by publishing an invitation on the network does not satisfy the elements to be a member as well (Kou merely suggest publishing its invitation to bid and not

10   membership by invitation). This is to say, one has to be a member first and such membership is by invitation as opposed to invitation to bid. Whether a party could bid or not is dependent on its membership status which is secured only by an invitation. As for Understein, it uses the deposit to qualify the bidders and not to offer the deposits for highest return but there is still the missing trusted network not found in both prior arts,

15   hence it is not combinable with Kou (in securing network as contrast to trusted network). Surely, the fact that Kou teach of invitation does also teach such invitation is aimed at a trusted network, more so if there is a further need to SECURE it.

Therefore, it is clear a 103(a) rejection is unsustainable given as a whole it does not speak

20   of an apparent reason and failed to show all the elements in view of the independent claims.

25

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Claims 5,11,17

Using 5 as representative.

5

Claim 5 reads : The method of claim 1 whereby said networks are linked for deposit
auction by invitation from at least one member of one network having relationship with at
least one member of a target network.

10

The examiner suggested that Kou teach the above limitation and provided Kou Col 4
lines 34-51. The examiner however did not provide any apparent reason to combine and
Casa fails to show its members (lottery buyers) have to invite other members in a target
network. The same is for Understein. Furthermore, Kou fails to teach one member of one

15   network having relationship with another member of a target network so invitation could
be send. Again, it is not inherent to show just because an invitation is send, it means the
sender has a relationship with another member in target network (See example of spam).
No apparent reason is given at all by the examiner as per KSR v Teleflex for a 103(a)
rejection. Therefore, it is clear there is no prima facie hence the applicant respectfully

20   asks the claims to be allowed.

In summary, the appellant respectfully submits all the claims are allowable and the
examiner's rejection is unsustainable for the reasons stated above.

25   Much Obliged,

Khai Kwan

Appellant/Applicant **(9 Dec 2008)**

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Appendix

Text of Claims as per this Appeal.

5

1.   A method for conducting a trusted deposit auction within at least one network

connected to at least one depositor's computer, said method operating on a host

10   computer, comprising:

A) receiving bid amount as a discount from principal or discounted principal from

    members of a trusted network wherein said members are depositors;

B) selecting a winner from said bids in said auction submitted by said depositors;

15   C) excluding said winner from future auctions;

D) depositing pooled funds for said winner's account;

E) repeating steps A, B, C, D at predetermined intervals with remaining depositors; and

whereby funds comprising cash equivalent or cash.

20   2.   The method of claim 1 wherein pooled funds include funds from each selected

winner making principal repayment at each predetermined interval beginning from the

next interval following the winning interval.

3.   The method of claim 1 wherein pooled funds include a discounted principal from each remaining depositor not selected as winner at each predetermined interval, said discounted principal is based on discount equivalent to the bid amount submitted by selected winner.

5

4.   The method of claim 1 whereby membership of a depositor network is by invitation only and said members are anonymous.

5.   The method of claim 1 whereby said networks are linked for deposit auction by

10   invitation from at least one member of one network having relationship with at least one member of a target network.

6.   The method of claim 1 whereby said step of repeating at step E is executed until one depositor is remaining or for a fixed number of sessions as agreed by the members at

15   outset of the auction whereby said number of sessions is no greater than the number of depositors at the outset.

7.   A trusted deposit auction system comprising:

at least a trusted network consisting of members computers;

20   a host server connected to the network; wherein said host server further comprising:

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a memory having at least one region for storing executable program code; and a

processor to execute the program code stored in the memory, wherein the program code,

further comprising:

5   A) code to receive   bid amount as a discount from principal or discounted principal from

members of said trusted network wherein said members are depositors;

B) code to select   a winner from said bids in said auction submitted by said depositors;

C) code to exclude said winner from future auctions;

D) code to deposit pooled funds for said winner's account;

10   E) code to repeat execution of codes A, B, C, D at predetermined intervals with

remaining depositors; and

whereby funds comprising cash equivalent or cash.

8.   The system of claim 7 wherein pooled funds include funds from each selected winner

15   making principal repayment at each predetermined interval beginning from the next

interval following the winning interval.

9.   The system of claim 7 wherein pooled funds include a discounted principal from

each remaining depositor not selected as winner at each predetermined interval, said

20   discounted principal is based on discount the bid amount submitted by selected winner.

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10.   The system of claim 7 whereby membership of a depositor network is by invitation

only and said members are anonymous.

11.   The system of claim 7 whereby said networks are linked for deposit auction by

5   invitation from at least one member of one network having relationship with at least one

member of a target network.

12.   The system of claim 7 whereby said code E is executed until one depositor is

remaining or for a fixed number of sessions as agreed by the members at outset of the

10   auction whereby said number of sessions is no greater than the number of depositors at

the outset.

13.   Computer executable software code stored on a computer readable storage medium

implementing the method of claim 1.

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14.   Computer executable software code stored on a computer readable storage medium

implementing the method of claim 2.

15.   Computer executable software code stored on a computer readable storage medium

20   implementing the method of claim 3.

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16. Computer executable software code stored on a computer readable storage medium implementing the method of claim 4.

17. Computer executable software code stored on a computer readable storage medium implementing the method of claim 5.

18. Computer executable software code stored on a computer readable storage medium implementing the method of claim 6.

19. A trusted deposit auction system including a computer connected to a network programmed to perform the method of Claim 1.

20. A trusted deposit auction system including a computer connected to a network programmed to perform the method of Claim 6.

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Evidence Appendix

NONE

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Related Proceedings Appendix

NONE

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